

Senate Bill No. 1251

Passed the Senate August 22, 2002

Secretary of the Senate

Passed the Assembly August 15, 2002

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day of
_____, 2002, at _____ o'clock __M.

Private Secretary of the Governor

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CHAPTER _____

An act to amend Sections 75, 76, 78, 395.04, 987.15, 987.56, 987.566, 988.2, 1035, 1035.05, 1035.3, 1035.4, 1038, and 1039.3 of, and to add Sections 988.4 and 988.5 to, the Military and Veterans Code, relating to military and veterans.

LEGISLATIVE COUNSEL'S DIGEST

SB 1251, Johannessen. Military and Veterans Code: veterans' farm and home purchase program: obsolete references.

The existing Military and Veterans Code contains various references that have been rendered obsolete by subsequent changes in the law.

This bill would correct some of these obsolete references.

Existing law provides for farm and home purchase benefits for qualifying veterans under the Veterans' Farm and Home Purchase Act of 1943, and subsequent acts.

Existing law authorizes the Department of Veterans Affairs to advance to any purchaser sums for certain purposes, including, but not limited to, paying taxes and assessments, or making certain improvements, and permits any of the money so advanced to be added to the deferred principal of the purchaser's account bearing interest at the same rate.

This bill would define purchaser for those purposes. The bill would instead permit any of the money so advanced to be added to the deferred principal of the purchaser's account bearing interest at the rate prescribed by the department.

This bill would authorize the department, out of any money available in the Veterans' Farm and Home Building Fund of 1943, to advance to a purchaser sums for the purpose of making alterations, repairs, or improvements on or in connection with the principal residence of the purchaser.

The bill also would require that all loans granted under these provisions be funded in accordance with federal laws governing the use of tax-exempt bonds.

The Veterans' Farm and Home Purchase Act of 1943 provides that the Department of Veterans Affairs shall not acquire a home in which the veteran has an interest of record, except in specified instances.



This bill would provide an additional exception where the veteran had a prior interest of record in the property as a result of property left in trust at the time of filing his or her application for a loan. The bill would also provide that the loan may only be used to pay the amount of any existing encumbrance.

The Veterans' Farm and Home Purchase Act of 1974 authorizes the Department of Veterans Affairs to prescribe and determine the qualifications for all veterans and requires that certain veterans be given preference over other veterans based upon the nature of their service.

This bill would revise the preference categories and provide that the preference categories shall be used whenever the department determines that a shortage of funds exists in any of the funding sources available.

Existing law provides that whenever applications for loans under the program exceed the amount of funds available, the department may establish, only once in each calendar year, a date so as to provide funding to veterans whose applications were filed on or before that date.

This bill would instead provide that whenever applications exceed the amount of funds available in any one or more of the available funding categories, the department may establish an eligibility date for each funding category.

The people of the State of California do enact as follows:

SECTION 1. Section 75 of the Military and Veterans Code is amended to read:

75. The secretary shall be appointed by and serve at the pleasure of the Governor.

SEC. 2. Section 76 of the Military and Veterans Code is amended to read:

76. The annual salary of the secretary is provided for by Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 3. Section 78 of the Military and Veterans Code is amended to read:

78. The Secretary of Veterans Affairs is head of the department and, as head of the department and subject to the policies adopted by the board, shall perform all duties, exercise all



powers and jurisdiction, assume and discharge all responsibilities and carry out and effect all provisions now or hereafter vested by law in the department.

SEC. 4. Section 395.04 of the Military and Veterans Code is amended to read:

395.04. During the time that as an officer or enlisted man or woman of the California National Guard, who is on full-time active duty in the military service of the state, and is engaged, with the approval of the Adjutant General, in the military service of the state in attendance at drills, camps, or special exercises, sponsored by federal authority or by the United States Department of Defense, as a member of the National Guard of the United States, he or she shall receive salary, pay, and compensation as provided in Sections 320 and 321.

SEC. 5. Section 987.15 of the Military and Veterans Code is amended to read:

987.15. The department shall not acquire a home in which the veteran has an interest of record except in the following instances:

(a) Where the application is for aid for the construction of a home upon unimproved real property owned by the applicant.

(b) Where the veteran had no interest of record in the property at the time of filing his or her application and thereafter secured interim financing pending the processing and approval of his or her application by the department.

(c) Where the application is to pay the balance due on an existing loan not insured or guaranteed by the federal government, and which bears an interest rate of more than $5\frac{3}{4}$ percent.

(d) Where the application is for purchase of a mobilehome to be situated upon real property, or an undivided interest therein, owned by the applicant.

(e) Where the veteran had a prior interest of record in the property as a result of property left in trust at the time of filing his or her application. The loan may only be used to pay the amount of any existing encumbrance.

SEC. 6. Section 987.56 of the Military and Veterans Code is amended to read:

987.56. (a) The department shall prescribe and determine the qualifications of all veterans. Any person deeming himself or herself a veteran and desiring to benefit hereunder, shall submit to the department information, in the form prescribed by the



department, that will enable the department to determine his or her eligibility and qualifications. The department may make further inquiries and investigations in order to determine eligibility and qualifications.

(b) Whenever the department determines that a shortage of funds exists in any of the funding sources available, the department shall use the following preference categories for the use of those funds.

(1) Veterans who are otherwise qualified because of service during a time of war and who were wounded or disabled as a result of their service shall be given first preference in the benefits conferred by this article. The department shall determine, in each case, whether the veteran was wounded or disabled as a result of service.

(2) The following group shall be given second preference in the benefits conferred by this article:

(A) The unremarried spouse of individuals who were members of the Armed Forces on active military duty and were killed in the line of duty while on active duty.

(B) Members of the Armed Forces who were held as prisoners of war.

(C) The unremarried spouse of members of the Armed Forces who have been designated by the Armed Forces as missing in action.

(3) Veterans whose eligibility is derived from service any portion of which was on or after August 2, 1990, and prior to a date to be set by law or by a Presidential proclamation ending the Gulf War, and veterans with wartime service discharged or released from active duty within 10 years of their application to the department shall be given third preference in the benefits conferred by this article.

(4) Active members of the California National Guard or a reserve component of a branch of the United States Armed Forces who meet the eligibility criteria of paragraph (3) of subdivision (a) of Section 980 shall be given fourth preference in the benefits conferred by this article.

(5) Veterans with wartime service discharged or released from active duty more than 10 years prior to their application to the department shall be given fifth preference in the benefits conferred by this article.



(6) Veterans who are otherwise qualified and whose only military service was during a time of peace shall be given sixth preference for the benefits conferred by this article.

(7) Veterans eligible for a subsequent loan under subdivision (a) of Section 987.86 shall be given seventh preference in the benefits conferred by this article.

(c) Nothing in this section regarding preferences shall affect any eligibility requirement for benefits conferred by this article.

SEC. 7. Section 987.566 of the Military and Veterans Code is amended to read:

987.566. Whenever applications exceed the amount of funds available in any one or more of the available funding categories, the department may establish a date for each funding category so as to provide funding to veterans whose applications were filed on or before that date, and whose applications are subsequently approved, before funding is made available to those whose applications are filed after that date.

SEC. 8. Section 988.2 of the Military and Veterans Code is amended to read:

988.2. (a) For purposes of this section, “purchaser” has the same definition as provided in Section 987.53.

(b) Out of any money available in the Veterans’ Farm and Home Building Fund of 1943, the department may advance to any purchaser upon his or her application, and under the policies as the department may, from time to time, prescribe, sums for the purpose of paying taxes and assessments, or making permanent improvements, including permanent improvements for the purpose of increasing farm productivity, or for keeping in good order or repair, or for painting, redecorating, or remodeling, all buildings, fences, or other permanent improvements on, or the insuring against fire or other hazards, any building, fence, or other permanent improvement, or crops on the property being purchased from the department, or the department may advance to the purchaser moneys actually expended in so doing.

(c) Any of the money advanced to a purchaser by the department may be added to the deferred principal of the purchaser’s account and shall bear interest at the rate prescribed by the department and shall be repaid by the purchaser to the department under the conditions as it may prescribe.



(d) The moneys advanced may, in the discretion of the department, be in addition to the maximum purchase price of a farm or home as provided by the Veterans' Farm and Home Purchase Act of 1974, as amended, and acts supplementary thereto.

(e) Any money required by the department to be paid for the purpose of taxes, insurance premiums, and other charges when they become due may be maintained by the department using the escrow accounting method in accordance with lending industry standards and the laws governing escrow accounts of this type.

(f) The department shall be the sole judge of the need and desirability of making advances or requiring payments by the purchaser under this section.

SEC. 9. Section 988.4 is added to the Military and Veterans Code, to read:

988.4. (a) For purposes of this section, "purchaser" includes any veteran whose only loan with the department is for the purpose of a home improvement on property that is the principal place of residence of the veteran.

(b) Out of any money available in the Veterans' Farm and Home Building Fund of 1943, the department may advance to a purchaser upon his or her application, and under the policies as the department may, from time to time, prescribe, sums for the purpose of making alterations, repairs, or improvements on or in connection with the principal place of residence of the purchaser.

(c) The department shall be the sole judge of the need and desirability of making advances and the method of repayment by the purchaser under this section.

SEC. 10. Section 988.5 is added to the Military and Veterans Code, to read:

988.5. All loans granted under this article shall be funded in accordance with federal laws governing the use of tax-exempt bonds.

SEC. 11. Section 1035 of the Military and Veterans Code is amended to read:

1035. (a) All moneys and other personal property of any veteran held by the home, or by its authority, or left by the veteran upon the premises of the home, shall, upon the death of the veteran, be held by the home in trust to be paid or delivered by the home upon proof determined to be proper to the administrator, directly



and without probate, to the heirs of the veteran, except that the administrator may disburse funds of any deceased veteran for payment of funeral expenses or any obligation owed to the home, including the cost of any care rendered by the home in excess of the fees paid by the veteran to the home. Any funds of the deceased veteran representing the cost of care rendered by the home in excess of the fees paid by the veteran to the home shall be paid to the Morale, Welfare, and Recreation Fund.

This subdivision applies only to veterans becoming members of the home on or after January 1, 1984.

(b) All moneys and other personal property of any veteran held by the home, or by its authority, or left by the veteran upon the premises of the home, shall, upon the death of the veteran, be held by the home in trust to be paid or delivered by the home upon proof determined to be proper to the administrator, directly and without probate, to the spouse, children, grandchildren, or father or mother of the veteran, except that the administrator may disburse funds of any deceased veteran for payment of funeral expenses or any obligation owed to the home.

This subdivision applies only to veterans who have become members of the home prior to January 1, 1984.

SEC. 12. Section 1035.05 of the Military and Veterans Code is amended to read:

1035.05. (a) All moneys and other personal property of any veteran other than that described in Section 1035 shall, upon the death of the veteran, first be paid to the administrator for payment of funeral expenses or any obligation owed to the home remaining unpaid after the disbursement required by Section 1035 is completed; and second, in the absence of an heir or heirs or a will, pass and descend to and become the property of the home for credit to the Morale, Welfare, and Recreation Fund. If the total value of that property in the state over and above any amounts due the veteran for services in the Armed Forces of the United States or from any other employment does not exceed three thousand dollars (\$3,000), the home may, without procuring letters of administration, collect any money due the decedent, receive the property of the decedent, and have any evidences of interest, indebtedness, or right transferred to it upon furnishing the person, representative, corporation, official, or body owning the money, having custody of the property, or acting as registrar or transfer



agent of the evidence of that interest, indebtedness, or right, with an affidavit showing the right of the home to receive the money or property or to have the evidences transferred. The receipt of the home shall constitute sufficient acquittance for any payment of money or delivery of property made pursuant to this section and shall fully discharge that person, representative, corporation, officer, or body from any further liability with reference thereto, without the necessity of inquiring into the truth of any of the facts stated in the affidavit. However, that payment or transfer does not preclude administration when necessary to enforce payment of the decedent's debts, and the administrator may, upon proof determined to be sufficient, pay the debts directly and without administration.

This subdivision applies only to veterans becoming members of the home on or after January 1, 1984.

(b) All moneys and other personal property of any veteran other than that described in Section 1035 shall, upon the death of the veteran, in the absence of a spouse, children, grandchildren, or father or mother, pass and descend to and become the property of the home for credit to the Morale, Welfare, and Recreation Fund. If the total value of that property in the State of California over and above any amounts due the veteran for services in the Armed Forces of the United States or from any other employment does not exceed three thousand dollars (\$3,000), the home may, without procuring letters of administration or awaiting probate of any will, collect any money due the decedent, receive the property of the decedent and have any evidences of interest, indebtedness, or right transferred to it upon furnishing the person, representative, corporation, official, or body owning the money, having custody of that property, or acting as registrar or transfer agent of the evidence of that interest, indebtedness, or right, with an affidavit showing the right of the home to receive that money or property or to have those evidences transferred. The receipt of the home shall constitute sufficient acquittance for any payment of money or delivery of property made pursuant to this section and shall fully discharge the person, representative, corporation, officer, or body from any further liability with reference thereto, without the necessity of inquiring into the truth of any of the facts stated in the affidavit. However, the payment or transfer does not preclude administration when necessary to enforce payment of the



decedent's debts, and the administrator may, upon proof determined to be sufficient, pay those debts directly and without administration.

This subdivision shall apply only to veterans who have become members of the home prior to January 1, 1984.

(c) For the purpose of application to this section of the provisions of the Probate Code governing distribution of property, the home shall be deemed to be a beneficiary of the decedent.

SEC. 13. Section 1035.3 of the Military and Veterans Code is amended to read:

1035.3. (a) If no will or heir is discovered within two years after the death of the veteran, any moneys not exceeding three thousand dollars (\$3,000) held by the home pursuant to Section 1035 and not paid or otherwise delivered to the heir or heirs or pursuant to the will of the deceased veteran, or otherwise disbursed by the administrator pursuant to Section 1035, shall be paid to the Morale, Welfare, and Recreation Fund.

If no will or heir is discovered within five years after the death of the veteran, any moneys exceeding three thousand dollars (\$3,000) held by the home pursuant to Section 1035 and not paid or otherwise delivered to the heir or heirs or pursuant to the will of the deceased veteran, or otherwise disbursed by the administrator pursuant to Section 1035, shall be paid to the Morale, Welfare, and Recreation Fund.

This subdivision applies only to veterans becoming members of the home on or after January 1, 1984.

(b) If no spouse, child, grandchild, or father or mother is discovered within two years after the death of the veteran, any moneys not exceeding three thousand dollars (\$3,000) held by the home pursuant to Section 1035 and not paid or otherwise delivered to the spouse, children, grandchildren, or father or mother, or otherwise disbursed by the administrator pursuant to Section 1035, shall be paid to the Morale, Welfare, and Recreation Fund.

If no spouse, child, grandchild, or father or mother is discovered within five years after the death of the veteran, any moneys exceeding three thousand dollars (\$3,000) held by the home pursuant to Section 1035 and not paid or otherwise delivered to the spouse, children, grandchildren, or father or mother, or otherwise disbursed by the administrator pursuant to Section 1035, shall be paid to the Morale, Welfare, and Recreation Fund.



This subdivision applies only to veterans who have become members of the home prior to January 1, 1984.

SEC. 14. Section 1035.4 of the Military and Veterans Code is amended to read:

1035.4. (a) All personal property held or received by the home pursuant to Section 1035, other than moneys or property described in Section 1035.2, which is unclaimed by, or not otherwise delivered to, the heir or heirs or pursuant to the will of a deceased veteran within one year after death, may be sold by the administrator by public auction or private sale. The sale shall take place at a public place in the home, and notice of the sale shall be posted in that place at least 10 days previous to the date of the sale. The proceeds of the sale shall be credited to the Morale, Welfare, and Recreation Fund.

This subdivision applies only to veterans becoming members of the home on or after January 1, 1984.

(b) All personal property held or received by the home pursuant to Section 1035, other than moneys or property described in Section 1035.2, which is unclaimed by, or not otherwise delivered to, the spouse, children, grandchildren, or father or mother of a deceased veteran within one year after death, may be sold by the administrator by public auction or private sale. The sale shall take place at a public place in the home, and notice of the sale shall be posted in that place at least 10 days previous to the date of the sale. The proceeds of the sale shall be credited to the Morale, Welfare, and Recreation Fund.

This subdivision applies only to veterans who have become members of the home prior to January 1, 1984.

SEC. 15. Section 1038 of the Military and Veterans Code is amended to read:

1038. All money deposited with the home for a veteran shall be paid to him or her on demand, upon his or her discharge or voluntary departure from the home. If the money is not so demanded at the time of his or her discharge or departure or within a period of two years thereafter, if the amount does not exceed three thousand dollars (\$3,000), or within a period of five years thereafter, if the amount exceeds three thousand dollars (\$3,000) either by the veteran, or, in the event of the veteran's death after his or her discharge or departure, by the veteran's heirs, devisees, legatees, or qualified executor or administrator of his or her estate,



the money shall be paid to the Morale, Welfare, and Recreation Fund.

SEC. 16. Section 1039.3 of the Military and Veterans Code is amended to read:

1039.3. The administrator, subject to the approval of the secretary, may accept cash donations or other gifts to be used for the welfare of the veterans. Cash shall be paid into trust funds as the administrator may establish, and shall be expended for promoting the welfare of the veterans and for the purpose designated by the donor.



Approved _____, 2002

Governor

